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10/040,288	10/25/2001	Robert J. Menendez	7780-T00349	9645
34456 7590 07/03/2008 LARSON NEWMAN ABEL POLANSKY & WHITE, LLP 5914 WEST COURTYARD DRIVE SUITE 200 AUSTIN, TX 78730				
EXAMINER THIER, MICHAEL				
ART UNIT		PAPER NUMBER		
2617				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/040,288

Applicant(s)

MENENDEZ, ROBERT J.

Examiner

MICHAEL T. THIER

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 6/6/2008 have been fully considered but they are not persuasive.

Applicant argues that the combination the examiner proposed would destroy the intended purpose of Flick, and is therefore not obvious and further argues, that the cellular telephone of Rosner is not capable of being wired to the vehicle security controller of Flick, nor is it capable of receiving signals from a remote security controller.

In response to applicant's argument that combining Rosner with Flick would destroy the intended purpose of Flick, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). The examiner is not trying to physically combine the references to arrive at the claimed invention, merely show that the idea of a mobile device that is mobile with respect to the vehicle and able to communicate with a hub within a vehicle would have been obvious to one of ordinary skill in the art at the time of invention. The examiner cited Flick, and explained how he taught nearly all the limitations of the claims, however upon a further review, the examiner would like to note that Flick could even be understood to teach all the limitations. The idea of a

communication device that is mobile with respect to the vehicle and communicating with the hub can clearly be understood by the transmitter 60, in figure 2. The transmitter 60 communicates with the security controller 26, via the RCV 29 (thus reading on this broad limitation).

However, in the previous rejection the examiner further provided Rosner, who clearly teaches a mobile communications device (hand held phone par. 118), which is mobile with respect to the vehicle, and yet can connect to the vehicle system (i.e. par. 118, the phone connects to the vehicle by use of Bluetooth). The examiner was merely showing that the idea of a mobile device being able to wirelessly connect to a vehicle system is obvious and well known. Therefore, one of ordinary skill in the art at the time of invention would have seen it obvious to utilize the teachings of Rosner, i.e. the idea of a mobile communications device that is mobile with respect to the vehicle and can still wirelessly connect to the vehicle system, with the vehicle and vehicle system as in Flick. The applicant further states that the Rosner device is not capable of being wired to the vehicle, however this is not necessary since it can wirelessly connect to the vehicle. However, one of ordinary skill in the art would have found it obvious to allow for wiring the device to the car in case a wireless signal is not wanted (since the device can be wirelessly connected to the vehicle system, one of ordinary skill in the art at the time of invention would have been able to see that a wired connection could also be possible). Therefore, whether the Flick reference alone be considered, or the combination of Flick in view of Rosner, the claim limitations are clearly obvious in view

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of the provided prior art.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-9, 12-24, and 27-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flick (6,703,946) in view of Rosener et al. (US 2002/0028655).

Regarding claims 1, 16. Flick teaches a vehicle comprising a position determination device (42; fig. 2); a subsystem indicator indicating a condition of a subsystem of the vehicle (vehicle device 26, fig. 1); an associated mobile communication device (RCV 29, fig. 2); and a hub (vehicle security controller 27) in permanent communication with a central computer (col. 5, ln. 49-64), the hub communicating with the position determination device, the subsystem indicator, and the mobile communication device (col. 5, ln. 31-53).

However, Flick does not teach that the mobile communications device is mobile with respect to the vehicle.

Rosener teaches a wireless system built in to a vehicle that allows a user carrying a mobile communications device (such as a cell phone) to connect to the vehicle system using such techniques as Bluetooth discovery. (par. 118) This idea that a mobile device can be mobile with respect to the vehicle, and wirelessly connect to the

vehicle system, when combined with the Flick reference clearly teaches the limitations claimed.

Therefore it would have been obvious for one of ordinary skill in the art at the time of invention to utilize the teachings of Rosener with the teachings as in Flick. The motivation for doing so would have been to allow for the mobile communications device to go with the user in and out of the vehicle.

Regarding claims 2, 17. Flick further teaches the position determination device comprises a GPS receiver (GPS receiver 42, fig. 2).

Regarding claims 3, 18. Flick further teaches the subsystem indicator indicates the condition of an ignition of the service vehicle (ignition switch 65, fig. 2).

Regarding claims 4, 19. Flick does not teach that the subsystem indicator indicates the condition of an odometer of the vehicle. However, Flick teaches that the subsystem indicator indicates the condition of the ignition, alarm, acceleration, battery, etc (col. 10, ln. 21 to col. 11, ln. 65). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Flick, so that the subsystem can provide information regarding the condition of the odometer in order to keep track how far the vehicle had traveled.

Regarding claims 5, 20. Flick further teaches the hub is in wireless communication with a cellular tower (wireless receiver 29, fig. 2, is in wireless communication with monitoring station 30, fig. 1; col. 12, ln. 15-25).

Regarding claims 6-7, 21-22. Flick further teaches the central computer communicates with an Internet site (col. 1, ln. 56 to col. 2, ln. 4; col. 13, ln. 1-14, fig. 3).

Regarding claims 8-9, 23-24. Flick does not teach the use of general packet radio service (GPRS) and cellular digital packet data (CDPD) protocols. However, these protocols are well known in the wireless art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize GPRS or CDPD advance features since CDPD shares bandwidth with cellular voice traffic. The channel is occupied just for the time it takes to send packets of data. If the channel is subsequently required for voice, the CDPD transmission will "hop" to another vacant channel.

Regarding claims 12, 27. Flick further teaches the hub is in wireless communication with a cellular tower (wireless receiver 29, fig. 2, is in wireless communication with monitoring station 30, fig. 1).

Regarding claims 13-14, 28-29. Flick does not teach the use of IEEE-802.11 (wireless LAN protocol) and bluetooth (wireless data transmission) protocols are well known in wireless art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Flick teachings, so that it can be used with IEEE-802.11 (wireless LAN protocol) and bluetooth (wireless data transmission) protocols in order to reduce wiring harness, and simplifying the installation of the LAN.

Regarding claims 15, 30. Flick illustrates in figs. 1-2 that the hub is in wire-line communication with the subsystem indicator. However, wireless hub is well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Flick teachings, so that the hub is in wireless

communication with the subsystem indicator in order to reduce wiring harness, and simplifying the installation of the tracking system.

4. Claims 10-11, 25-26, 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flick (6,703,946) in view of Rosener et al. (US 2002/0028655) in further view of Saunders et al (5,918,172).

Regarding claims 10-11, 25-26, 31. Flick teaches a vehicle comprising a position determination device (42; fig. 2); a subsystem indicator indicating a condition of a subsystem of the vehicle (vehicle device 26, fig. 1); an associated mobile communication device (RCV 29, fig. 2); and a hub (vehicle security controller 27) in permanent communication with a central computer (col. 5, ln. 49-64), the hub communicating with the position determination device, the subsystem indicator, and the mobile communication device (col. 5, ln. 31-53).

However, Flick does not teach that the mobile communications device is mobile with respect to the vehicle.

Rosener teaches a wireless system built in to a vehicle that allows a user carrying a mobile communications device (such as a cell phone) to connect to the vehicle system using such techniques as Bluetooth discovery. (par. 118) This idea that a mobile device can be mobile with respect to the vehicle, and wirelessly connect to the vehicle system, when combined with the Flick reference clearly teaches the limitations claimed.

Therefore it would have been obvious for one of ordinary skill in the art at the time of invention to utilize the teachings of Rosener with the teachings as in Flick. The motivation for doing so would have been to allow for the mobile communications device to go with the user in and out of the vehicle.

However, Flick and Rosener do not teach that the central computer provides directions to the vehicle to a subsequent destination and traffic data to the vehicle.

Saunders teaches the central computer provides directions to the vehicle to a subsequent destination and traffic data to the vehicle (col. 3, ln. 24-33; col. 4, ln. 1-9).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the teachings of Saunders into the teachings of Flick and Rosener in order to provides an integrated and efficient technique to deliver a variety of voice and enhanced services to customers.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL T. THIER whose telephone number is (571) 272-2832. The examiner can normally be reached on Monday thru Friday 7:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duc Nguyen can be reached on (571) 272-7503. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. T. T./
Examiner, Art Unit 2617
7/1/2008

/Duc Nguyen/

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Supervisory Patent Examiner, Art Unit 2617